Before the Administrative Hearing Commission State of Missouri



JAMES L. KNOX, d/b/a TRYCO ENTERPRISES,)	
	,)	
Petitioner,)	
VS.)	No. 13-1640 RV
DIRECTOR OF REVENUE,)	
Respondent.)	

DECISION

We dismiss the appeal filed by James L. Knox, d/b/a Tryco Enterprises because we have no jurisdiction to hear an appeal filed beyond the deadline set by statute.

Procedure

On September 16, 2013, Knox filed a complaint appealing the Director's assessment of sales tax. On September 25, 2013, the Director filed a motion for summary decision, with supporting exhibits. The Director argues that Knox did not file his appeal in time. We consider the Director's motion as a motion to dismiss for lack of jurisdiction.

We gave Knox until October 11, 2013, to respond to the motion, but he did not respond. Therefore, we conclude that the following facts are undisputed.

Findings of Fact

1. On June 7, 2013, the Director mailed to Knox a final decision assessing sales tax.

- 2. On September 16, 2013, Knox's complaint arrived at this Commission by regular mail.
 - 3. September 16, 2013, was more than sixty days after June 7, 2013.

Conclusions of Law

Section 144.261¹ provides we have jurisdiction to hear an appeal from the Director's final decisions, but requires that such appeal be filed "within sixty days after the mailing or delivery of such decision, whichever is earlier." Knox did not meet that deadline because the complaint was not filed until we received it.² We have no jurisdiction to hear a complaint filed out of time.³ If we have no jurisdiction to hear the complaint, we cannot reach the merits of the case and can only exercise our inherent power to dismiss.⁴

We grant the Director's motion and dismiss the complaint.

SO ORDERED on November 14, 2013.

\s\ Sreenivasa Rao Dandamudi_ SREENIVASA RAO DANDAMUDI Commissioner

¹ Statutory references are to the 2000 Revised Statutes of Missouri. ² Section 621.205.

³ Community Fed. Sav. & Loan Assoc. v. Director of Revenue, 752 S.W.2d 794, 799 (Mo. banc), cert. denied, 488 U.S. 893 (1988).

Oberreiter v. Fullbright Trucking, 24 S.W.3d 727, 729 (Mo. App., E.D. 2000).